

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Victor Glen Wilkes,
PETITIONER

v.

United States of America,
RESPONDENT

Crim. No. 4:04-cr-00145-TLW-1
C/A No. 4:16-cv-01390-TLW

Order

This matter is before the Court on Petitioner's Motion to Alter or Amend Judgment regarding his § 2255 petition that the Court granted on June 28, 2017, in which he requests a technical correction to the judgment. Specifically, he says "that [he] was actually innocent of 18 U.S.C. § 924(e)," which is the Armed Career Criminal Act (ACCA), but that "[t]he amended Judgment and Commitment still shows that [he is] guilty of this offense." ECF No. 84. He is correct in noting that his Amended Judgment, ECF No. 81, incorrectly still indicates that he violated § 924(e), and that a new amended judgment should be issued to correct that clerical error and make this technical correction to the judgment. To this extent, his Motion to Alter or Amend Judgment is **GRANTED**.

Regarding Petitioner's convictions under the Youthful Offender Act (YOA) statute, it is not clear what relief he is requesting. The basis for granting his § 2255 petition was that his relevant prior convictions (three of which resulted in YOA sentences) were no longer predicate offenses for ACCA purposes pursuant to *Descamps v. United States*, 570 U.S. 254 (2013), *Mathis v. United States*, 136 S. Ct. 2243 (2016), *United States v. Hall*, 684 F. App'x 333 (4th Cir. 2017), and *United States v. Winston*, 850 F.3d 677 (4th Cir. 2017), and that, absent these convictions, he did not qualify for an enhanced sentence under the ACCA. Thus, to the extent his Motion to Alter

or Amend Judgment seeks additional relief, it is **DENIED AS MOOT**, as the Court previously ruled on that issue.

Pursuant to Rule 36, the Court notifies the parties that it intends to issue an amended judgment to correct the clerical error noted above. The Court will give the Government 7 days from the date of this order to raise any objection, and if no objection is filed, the Court will enter an amended judgment to reflect that he did not violate 18 U.S.C. § 924(e).

IT IS SO ORDERED.

s/ Terry L. Wooten

Terry L. Wooten
Chief United States District Judge

December 6, 2018
Columbia, South Carolina